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Attorneys for Defendants
THE COCA-COLA COMPANY and
COCA-COLA REFRESHMENTS USA, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GEORGE ENGURASOFF and JOSHUA
OGDEN, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

THE COCA-COLA COMPANY and COCA-
COLA REFRESHMENTS USA, INC.,

Defendants.

Case No. 3:13-cv-03990-JSW

**STIPULATION AND ~~[PROPOSED]~~
ORDER GRANTING CONTINUANCE OF
HEARING DATE ON DEFENDANTS'
MOTION TO DISMISS PLAINTIFFS'
AMENDED COMPLAINT AND INITIAL
CASE MANAGEMENT CONFERENCE**

Judge: Hon. Jeffrey S. White

Pursuant to Civil Local Rules 6.1(b) and 7-7, Plaintiffs George Engurasoff and Joshua Ogden ("Plaintiffs"), and Defendants The Coca-Cola Company and Coca-Cola Refreshments USA, Inc. ("Defendants") (collectively referred to as the "Parties") through their respective counsel hereby stipulate as follows:

WHEREAS, the Complaint was served on Defendants on September 13, 2013;

1 WHEREAS, the Court granted the Parties' Stipulation and Proposed Order Extending Time
2 to File Response to Complaint and Setting Briefing Schedule for Motion to Dismiss on September
3 24, 2013 (Dkt. No. 10);

4 WHEREAS, Plaintiffs' Amended Complaint was filed on October 21, 2013 (Dkt. No. 15);

5 WHEREAS, Defendants filed a Motion to Dismiss Plaintiff's Amended Complaint on
6 November 22, 2013 (Dkt. No. 30);

7 WHEREAS, Plaintiffs filed an Opposition to Defendants' Motion to Dismiss on January 10,
8 2014 (Dkt. No. 33);

9 WHEREAS, the Court granted Defendants' Emergency Motion for Extension of Time to File
10 a Reply Brief in support of their Motion to Dismiss Plaintiffs' Amended Complaint (Dkt. No. 37);

11 WHEREAS, the deadline for Defendants to file a Reply Brief in support of their Motion to
12 Dismiss Plaintiffs' Amended Complaint is February 7, 2014;

13 WHEREAS, pursuant to Plaintiffs' counsel's request, Defendants agreed to continue the
14 hearing date on Defendants' Motion to Dismiss Plaintiffs' Amended Complaint and the Initial Case
15 Management Conference from February 21, 2014 to March 4 or March 7 in order to accommodate
16 Plaintiffs' counsel's scheduling conflict (Dkt. 34);

17 WHEREAS, on January 29, 2014, the Court modified and granted the Parties' Stipulation
18 and Proposed Order and continued the hearing date on Defendants' Motion to Dismiss and the Initial
19 Case Management Conference to March 21, 2014 (Dkt. No. 35);

20 WHEREAS, the Parties stipulated to continue the hearing on Defendants' Motion to Dismiss
21 and the Initial Case Management Conference to March 4, 2014 or March 7, 2014, and not the March
22 21 date set by the Court, because Defendants' lead counsel is scheduled to begin trial on March 18,
23 2014 in a case captioned *Janssen Products, L.P., et al. v. Lupin Limited, et al.*, C.A. No. 10-cv-
24 05954 (WHW-SCM), pending in the United States District Court for the District of New Jersey;

25 WHEREAS, *Janssen Products, L.P., et al. v. Lupin Limited, et al.* is a patent infringement
26 action that was brought against three separate generic drug manufacturers, each of whom seek
27 approval to market a version of the plaintiff's billion-dollar drug, PREZISTA[®];

WHEREAS, *Janssen Products, L.P., et al. v. Lupin Limited, et al.* involves five separate patents, each with multiple claims in issue;

WHEREAS, the Honorable William H. Walls of the United States District Court for the District of New Jersey, presiding over *Janssen Products, L.P., et al. v. Lupin Limited, et al.*, has set a firm trial date of March 18, 2014 and has set aside fourteen (14) trial days in which to try the action;

WHEREAS, although possible that the trial of the *Janssen Products, L.P., et al. v. Lupin Limited, et al.* matter will conclude sooner than the fourteen days allotted by the Honorable William H. Walls, the parties to the matter presently anticipate that the trial will proceed through to the end of the first week of April 2014;

WHEREAS, this Court's calendar indicates that April 18, 2014 and April 25, 2014 are the only available dates in April on which to hold the hearing on Defendants' Motion to Dismiss Plaintiffs' Amended Complaint and the Initial Case Management Conference;

WHEREAS, the Parties jointly request that the hearing on Defendants' Motion to Dismiss Plaintiffs' Amended Complaint and the Initial Case Management Conference be continued from March 21, 2014 to April 18, 2014 or April 25, 2014;

NOW, THEREFORE, IT IS HEREBY STIPULATED by and between the Parties through their respective attorneys of record that:

1. Due to defense counsel's unavailability after March 10, 2014 (*see* January 21, 2014 Stipulation, Dkt. 34) and before April 7, 2014 because of a fourteen-day, patent infringement trial set to begin on March 18, 2014 in the United States District Court for the District of New Jersey, the current hearing date for Defendants' Motion to Dismiss Plaintiffs' Amended Complaint is continued from March 21, 2014 to April 18, 2014 or April 25, 2014; and
2. Pursuant to the agreement of the parties, in the event the hearing date on Defendants' Motion to Dismiss Plaintiffs' Amended Complaint is continued pursuant to Paragraph 1 above, the Initial Case Management Conference currently set for March 21, 2014 is continued to the date on which the hearing on Defendants' Motion to Dismiss is reset,

1 with the Initial Case Management Conference to take place following the hearing on
2 Defendants' Motion to Dismiss.

3
4 Dated: February 7, 2014

SHOOK, HARDY & BACON L.L.P.

5
6 /s/ Tammy B. Webb

TAMMY B. WEBB

7 Attorneys for Defendants
8 THE COCA-COLA COMPANY and
9 COCA-COLA REFRESHMENTS USA, INC.
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Dated: February 7, 2014

FLEISCHMANN LAW FIRM

/s/ Bradley F. Silverman

BRADLEY F. SILVERMAN

Attorneys for Plaintiffs
GEORGE ENGURASOFF and
JOSHUA OGDEN

Pursuant to L.R. 5-11(i)(3), I attest that concurrence in the filing of this document has been obtained from the other signatories.

By: /s/ Tammy B. Webb

Tammy B. Webb

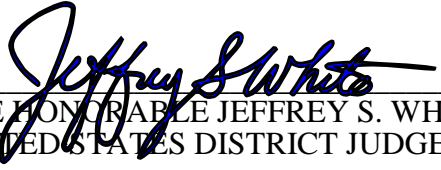
[PROPOSED] ORDER

The Court hereby orders that:

1. The current hearing date for Defendants' Motion to Dismiss Plaintiffs' Amended Complaint is continued from March 21, 2014 to April 18, 2014 at 9:00 a.m.;
2. The Initial Case Management Conference currently set for March 21, 2014 is continued to April 18, 2014 at ~~1:30 p.m.~~ ^{11:00 a.m.}

IT IS SO ORDERED.

Dated: February 10, 2014



THE HONORABLE JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE